Clauses 2 and 3 put and carried.

Clause 1 put and carried.

Title and Preamble put and carried.

Mr. K. Narayana Menon *(Mulakunnathukavu):* I beg to move that the Bill may be taken up and finally passed to-morrow.

Mr. A. B. Salem *(Mattancheri):* I second it.

Motion put and carried.

The Cochin Verumpattamdars Act (Amendment) Bill

Rao Sahib K. Ayyappan *(Ezhuvas-Ernakulam):* I beg to present the report of the Select Committee on the Cochin Verumpattamdars' Act (Amendment) Bill for the consideration of the House.

Mr. P. P. Devassy *(Trichur-South):* I second it.

Mr. V. K. Bhaskara Menon *(Cranganur):* On a point of order Sir, under Standing Order 35 a Bill if amended needs republication 12 days before the meeting and this particular Bill which is now being taken into consideration here has not been published 12 days previously.

Mr. President: It is quite correct that 12 days interval has not been given; but this being the last meeting of the Council I want to know whether the House is prepared to waive that notice.

Mr. V. K. Bhaskara Menon *(Cranganur):* Sir, my only point is that under S. O. 35 there is no discretion vested either in the Council or in the President to waive it. Under S. O. 37 you will be pleased to find that if a copy of report is not made available to the Members 12 days before a Member can raise an objection and that can be waived by the President. This Council has no power unless the S. O. is amended. There is a specific provision regarding that and I thought it would look funny if we ourselves violate the provisons of the law.

Mr. M. Sivarama Menon *(Advocate-Genaral):* I submit that the President has got the Power to suspend this provision Under S. O. 94 (1) the President has got the power, It says ".. ...but any member may object to its being so taken into consideration if a copy of the report has not been available for the use of the members for twelve days, or if three months have not elapsed from the date of the first publication of the Bill, and such objection shall prevail unless the President in the exercise of his power to suspend this provision allows the report to be taken into consideration". That provision applies to the Bill not part by part but as a whole, and this power of the President to suspend the provision may be exercised in this case. The peculiar circumstances of the case, deserve the exercise of such a discretion.

Mr. President: I think under the S. O. I can suspend the provision and allow the report to be taken into consideration.

* **Mr. K. Ashtamoorthi Nambudiripad** *(Landlord):* I rise to oppose this Bill. The object of the original Bill was to provide a remedy for the unbearable increase and inequitable decrease of the money value of the pattam of cocoanut gardens owing to abnormal fluctuations of the cocoanut market. But we cannot say that the provisions contained in the existing verumpattamdars' Act itself are inequitable. In the boom periods the landlord will get the benefit of the rise in prices. But during depression periods he will have to bear the disadvantages of a fall in prices also. The benefits and disadvantages of a rise or fall in prices be borne both by the landlord as well as the tenant.

Sir, the Cochin Verumpattamdars' Act was passed in the year 1118. Unfortunately there has begun, by this time a general rise in prices of agricultural commodities including cocoanuts. This happened to be a wind-fall to the land-holders and tenants do not want the jenmies to enjoy the benefits of this.

One argument the tenants may bring forward in support of this amendment would be, that during the depression period when the price of cocoanuts, when commuted to money, was very low, they were compelled to pay the money rent fixed in the lease-deed, and now when the price of cocoanuts has arisen they have to pay again a big amount according to the provisions of the Verumpattamdars' Act. I shall show you, Sir, that this argument is fallacious. The passing of the Agriculturists' Relief Act in 1114 gave relief to the tenants from the hardships caused by the inequitable decrease in the money value of the pattam. Moreover I can say from

* Speech not corrected be the Hon'ble Member

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my own personal knowledge that Jenmies at least in Trichur Taluk have given remissions upto 30 per cent of the pattam of the cocoant gardens during this period. Therefore I submit, Sir, there is no bonafides in bringing this Amendment now and so I oppose this Bill.

Motion put and carried

Clause 2 put and carried

Mr. M. Sivarama Menon *(Advocate-Genaral)*: Sir I beg to move that the first proviso to clause 3 may be deleted. The proviso that I seek to delete thus: "Provided that where the money value computed under this sub-clause exceeds the pattam payable in money fixed under the contract of tenancy the money value of the pattam payable shall not exceed the money pattam fixed in the contract of tenancy together with half of such excess". After accepting the principle that it is always better and equitable to calculate pattam on the basis of the number of cocoanuts that were contracted to be paid for on the date of tenancy this proviso seeks to say that in no case shall the excess if any in the pattam payable caused by fluctuation in the market price be liable to be paid to the Jenmi wholly, and that it should be apportioned practically in half and half. That is the principle contained in this proviso. At the same time there is no provision here to share the loss if any that is incurred when the prices go lower than the contracted rate, in the same proportion as the excess is sought to be apportioned. The main purpose of this amending Bill has been to give relief to persons who have to pay pattam of cocoanut gardens. It was complained that the existing provision by which the number of cocoanuts to be computed on the basis of market rate prevailing on the date of the contract of tenancy and the calculation of the present pattam on the basis of the market price of such number of cocoanuts on the due date, and is hard and unjust. It is pointed out that though the principle of commutation in kind is very good to the tenant, both the jenmi and the tenant may equally share the result. It might not have been on the real basis of the market rate prevailing on a particular date that the rate of pattam would have been fixed in the contract of tenancy. They might have had several other considerations. There is therefore a *prima facie* hard-ship to the tenant. The principle requires some modification for another reason as well. If we say that the number of cocoanuts that a tenant would be getting on a particular date should be considered as a perpetual return for him hereafter, then that may not be a realisable anticipation. It may be that the law of diminution of return comes into play. It may also be that those trees which existed at the time of the contract of tenancy are overgrown and yields less cocoanuts. Over plantation will cause diminution of the income. Now, therefore if a well-planted area is given on lease on a particular date, for us to expect that that income will be realised up to the end of the world does not appear to be quite convincing. The pros and cons of the whole question has been considered by the Select Committee and Government taking a view of all the provisions in the Cochin Verumpattamdars' Act, have come to the conclusion that some sort of modification with regard to the fixation of the pattam payable on the date of the contract of tenancy will tend to create a better contentment among the tenants in general without serious prejudice to the jenmies. It would be a stable rate if the average is taken for a period of 20 years prior to the date of the contract of tenancy. As a matter of fact no landlord or tenant would have fixed the pattam even in those days by having had an idea of the average market rate for 20 years. But we must have a practical basis, and what shall be the workable basis? Let us have a suitable figure, and in order to arrive at a suitable figure; what method shall we adopt? The method suggested in the amending Bill appears to be very reasonable, because if the market price is spread over a period of 20 years, it must necessarily take in periods of boom, and periods of great depression, and mediocre prices. All sorts of whims and fancies of the cocoanut market must reasonably be taken to have been included in a period of 20 years. Therefore if on that basis we can proceed, why not we take it that the landlord and tenant when he contracted had all in his mind though not the actual market rate a reasonable average price. Government have therefore adopted the position that some relief should be given and that the principle embodied in the Amending Bill that the market rate of the cocoanuts on the date of the contract of tenancy calculated on the average rate for the past 20 years may be accepted. Government consider that that will be a sufficient measure of relief to the tenant.

Mr. T. P. Poulose *(Kanayannur)*: It will be to the advantage of the landlord also.

Mr. M. Sivarama Menon *(Advocate-General)*: When the average price will be lower than the market rate. I never say it cannot arise. In some cases, it may be to the advantage of the landlord as well.

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Mr. T. P. Poulose *(Kanayannur):* When you take the average price into consideration the number of cases with higher prices and the number of cases with lower prices must be equal.

Mr. M. Sivarama Menon *(Advocate-General):* It may all depend upon the dates of the contract of tenancy in particular cases, because we are taking 20 years prior to the date of the contract of tenancy. It may be that in certain cases, one landlord may be benefited, because he happened to fix the pattam on a date when the market rate was very low. But we cannot take into consideration stray possibilities and legislate. The committee considered the question as a whole. The committee had not before it all the pattamchits executed in Cochin. We consider that the average market rate computed on the basis that is put forth in the amending Bill of Rao Sahib Ayyappan would afford considerable relief in cases where relief is called for. Therefore we will have recourse to a stable market rate both to the landlord and to the tenant. In that view alone the committee considered the question in a general way. The principle of calculation of the average market rate by spreading it over for 20 years is the principle accepted by Government. But the other position that is contained in the proviso cannot be accepted. This is against the principle of this very amending Bill. There is a case against the mathematical division of the excess into half and half. If the prices of cocoanut had not shot up very high soon after the passing of the Cochin Verumpattamdars' Act there should have been no complaint. If it were a period of depression the tenant should have taken shelter under the existing provisions. In all matters like this we have to take the interests of the landlord and the tenant into consideration. The principle of appointment or the excess alone contained in the proviso could not be accepted. That is why Government tabled this amendment to delete the proviso so that the gain and loss may be borne equally. It is only the keen anxiety of the Government to do justice that has impelled the Government to accept this principle. But that occasion should not be used by Hon'ble members for the purpose of getting as much as possible. If the interests of the tenants are at your heart, I humbly appeal to the Members to accept this amendment. It is a very serious decision that the Government have taken and you should not consider it as a trifle and ask for more for the tenant.

The House rose for the day at 5 p. m.

N. S. RADHAKRISHNA SARMA
Secretary to the Legislative Council

APPENDIX I

(See Answer to Question No. 327)

Copy of the entries in the Register of paper and book-binding materials

The register contains several sections. Extracts from such of the sections as contain entries dated 11th Edavam 1118 are given below.—

1. Bank Post paper.—Stock 328 sheets. Manager's remarks-stock on verification on 11th Edavam 1118.
   Old stock do. small size (entry crossed)
   Old stock Croxley extra strong 213 sheets (big size)
   Old stock do. big size (entry crossed)
   Small size 115 sheets
   Initialled Manager 11th Edavam 1118.
2. White Glazed paper.—30″×40″ Manager's remarks Stock with difference in totalling .. 369
   Stock on actual verification .. 184
   Difference .. 185
   Initialled Manager 11th Edavam 1118
3. Calico.—Issue to binder 1/8 yd. For "Mounting the maps of Azhikkal" scored over and "binding the area register of Vellanikara" entered. Balance of stock 1 yard.
4. Manifolding paper.—Stock 813 "Stock on actual verification" .. 463
   Difference .. 350
   Initialled Manager 11th Edavam 1118.

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